IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JODHPUR

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:ORDER:

Ramchandra & Anr. Vs Jodhpur Vidyut Viteran Nigam Ltd. & Anr.

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S. B. CIVIL WRIT PETITION NO.4402/2004 UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA

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Date of Order : 6th May, 2005

PRESENT

HON'BLE MR. JUSTICE PRAKASH TATIA

Mr.JL Purohit, for the petitioners.
Dr.GR Kalla, for the respondents.

BY THE COURT:

This Court by detailed order dated 8th April, 2005 directed the parties to explain few questions in relation to the various categories of electric connections allowed by the Electricity Board. The respondent Electricity Board, thereafter, submitted additional contentions on 26th April, 2005.

Heard learned counsel for the parties.

According to petitioners, the petitioners applied for electric connection for agricultural purpose for their agricultural land on 27th July, 1999. According to petitioners, a list was prepared for eligible applicants for electric connection and in that list, the petitioners' name was at S.No.2. The list was also affixed on the notice board of the respondent no.2-electricity company. The petitioners came to know that estimate for preparing a demand note was also prepared and same has been approved by the Executive Engineer, but for the reasons best known to the respondents that demand notice was not given to the petitioners. Therefore, the petitioners submitted written request before the respondent no.2 on 17th July, 2004 to issue demand note and to grant electric connection to the petitioners. It is also submitted that petitioners submitted an application before the SDO, Sojat and requested that SDO, Sojat may direct the respondent no.2 to issue the demand note. The petitioners also submitted the representation before the Lok Pal Commission-cum -Divisional Commissioner, Jodhpur for redressal of their grievance, but no relief was granted to the petitioners. The petitioners served a notice for demand of justice dated 23rd August, 2004 and requested for release of electric connection in general category. Therefore, according to petitioners, the

respondents may be directed to produce the record from which it will prove that the petitioners' name was at S.No.2 and the record will also prove that petitioners' case was considered for grant of electric connection in general category. According to petitioners, the demand note has not been issued by taking a pretext of the Agricultural Connection Policy, 2004 wherein the cut out date has been provided as March, 1991 for grant of connection in general category, but according to petitioners, it is contrary to the provisions of the Act of 2003.

According to petitioners, as per section 43(1) of the Act of 2003, the electricity company is under obligation to provide electric connection on the application of the applicant within a period of one month after the receipt of the application requiring such supply. According to learned counsel for the petitioners in view of the above statutory provision putting an obligation upon the electricity company to supply the electricity, the respondent cannot deny the electric connection to the petitioners.

The petitioners also challenged the Agricultural Connection Policy, 2005 by saying that no policy can be prepared contrary to the provisions of the Act of 2003. Therefore, even if there is a provision in the policy, fixing of cut of date of March, 1991 in general category,

same is contrary to the provisions of the Act of 2003. However, the petitioners for the reason best known to them did not seek any relief for quashing either the date fixed in the policy of the 2004 nor seeking quashing of the entire policy in the writ petition.

The respondent-company submitted detailed reply stating therein that the applications for electric connections are pending since 1991 and petitioners applied in the year 1999, therefore, the petitioners cannot be given electric connection out of priority. However the respondents submitted that in view of the policy framed for agricultural connection, out of priority connection in the category of Farm House Connection can be given to the applicants if petitioners wish for which they have to pay more. The respondent-electricity company offered petitioners that facility also, but petitioners are not willing to take connection in that category.

The respondents gave out the details of the Agricultural Connection Policy, 2004, which contains an agricultural connection in the category of Farm House Scheme. The respondents also gave details of the applications, which are pending and also submitted details of various years by which the electric connections are to be released. As per the Chart given by the respondent-company, the respondent-

company had 543 applications for the area in which petitioners seeking electricity connection. The cut out date for release of connections have been given in the Chart, which provides that the connections will be released according to availability of electricity supply.

In view of the above, according to respondents, the petitioners either can have electric connection in general category on their turn or in priority basis in Farm House Connection category.

I considered the submissions of learned counsel for the parties and perused the relevant provision of law as referred above including Section 43(1) of the Act of 2003. It is clear from the facts mentioned in the writ petition itself that petitioner applied for electric connection in the year 1999. The applications for electric connection still are pending before the respondent company of the year 1991. In view of the above fact the petitioners' priority could not have been as stated by the petitioners. The contention of the petitioners that a list was issued by the respondent electricity board and it was affixed on the notice board of the respondent no.2 itself containing the petitioners' name at S.No.2 in the list is concerned, that appears to be either a mistake of the Board or it may be because of fact that petitioners' application was considered for priority connection in the Farm House Electric

Connection Scheme. The contention of the petitioners that the petitioners since applied for connection in general category, therefore, their application could not have been considered in Farm House Scheme category only shows that petitioners want to take benefit of situation might have been created by the respondent in view of the fact that it cannot be believed for a period from 1991 to 1999 there were only two applications pending for grant of electric connection so that petitioners can have their priority no.2. There appears to be no reason to not to believe the facts given by the respondent in their reply about the applications pending upto the year 2003.

So far as contention of learned counsel for the petitioners that the respondent-company is under obligation to give electric connection within one month from the date of receipt of the application appears to be not well founded. The electric supply can be given only on the basis of the supply, according to availability of the electric supply to the electricity company. The provisions of Section 43(1) of the Act of 2003 may provide that the electric connection shall be released within one month after the receipt of the application requiring such supply that means only when the respondents electricity company shall take all necessary care to grant the electric connection as early as possible and in case, they receives large number of applications for electric

connection, then the connection will be given in accordance with the priority only. The provision cannot be read to be mean that even if there is no possibility of giving electricity supply, still the electric connection will be given. The electricity companies are given ample power to regulate their supply according to their availability of electricity supply with them. Otherwise also, the arguments advanced by learned counsel for the petitioners on assumption that electricity company in all cases is required to release the electric connection within a period of one month, is absolutely unworkable proposition.

In view of the above discussion, the contentions raised by the petitioners that the policy of 2004 is in violation of the Electricity Act, 2003 does not survive because even in absence of any policy, priorities are required to be fixed by the electricity company only according to the availability of the supply.

In view of the above, I do not find any merit in this writ petition and the same is hereby dismissed.

(PRAKASH TATIA), J.

c.p.goyal/-